United Nations A/66/905–S/2012/710

General Assembly
Security Council

Distr.: General
18 September 2012

Original: English

General Assembly
Sixty-sixth session
Agenda items 35, 39, 67, 83 and 109

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Elimination of racism, racial discrimination, xenophobia and related intolerance

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Security Council
Sixty-seventh year

Letter dated 17 September 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I would like to draw your attention to a letter dated 31 August 2012 from the Permanent Representative of Armenia to the United Nations transmitting a statement by the Ministry of Foreign Affairs of Armenia regarding the case of Ramil Safarov, a national of Azerbaijan and officer of its armed forces sentenced to life imprisonment in Hungary in 2004 for the death of an Armenian officer in an incident that took place during a North Atlantic Treaty Organization-sponsored training course in Budapest (A/66/896-S/2012/681). In its statement, the Ministry of Foreign Affairs of Armenia expressed its disappointment with the decision taken by the Hungarian authorities to transfer Ramil Safarov to Azerbaijan, and with his subsequent pardon by the President of Azerbaijan.

It should be made clear at the outset that the transfer of Ramil Safarov from Hungary to Azerbaijan was a purely legal matter between the two countries, addressed in full conformity with the 1983 Strasbourg Convention on the Transfer of Sentenced Persons, to which both Hungary and Azerbaijan are parties.

After Ramil Safarov was transferred to Azerbaijan, the President of Azerbaijan pardoned him using his authority under Article 109 (22) of the Constitution of the Republic of Azerbaijan. The Constitution does not lay out any limitation to the exercise by the President of his right to pardon. Moreover, Article 12 of the Convention on the Transfer of Sentenced Persons explicitly provides that "Each

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party may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws". Article 82.3 of the Criminal Code of Azerbaijan provides that the sanction of a person sentenced to life imprisonment may be replaced by way of pardon with imprisonment for a term not exceeding 25 years. Ramil Safarov has served 8.5 years of his sentence. The act of pardon should be considered the replacement of the sentenced person's life imprisonment with the sanction of imprisonment equal to the term already served by him. Ramil Safarov was accordingly released. Thus, both the procedure for Ramil Safarov's transfer to Azerbaijan and his subsequent pardon were in full conformity with the Convention on the Transfer of Sentenced Persons as well as the legislation of the Republic of Azerbaijan.

Ramil Safarov served more than eight years for the action he committed, and he is being neither glorified nor considered a hero in Azerbaijan, as the Armenian side claims. At the same time, it should be kept in mind that the incident which resulted in his imprisonment occurred between the military officers of the two belligerent States. Accordingly, Ramil Safarov was not like an ordinary man killing a friendly course participant. Moreover, he had witnessed his own home occupied and many close relatives killed by invading Armenian forces. His family was one of the thousands of families that had been forcibly expelled from their native Jabrayil district, which was subsequently occupied. Additionally, the killed Armenian officer had been persistently provoking Ramil by insulting him and his country.

It is therefore obvious that the incident that resulted in the death of an Armenian officer should only be seen in the context of the ongoing illegal occupation by Armenia of the territories of Azerbaijan, serious crimes committed against the Azerbaijani civilian population during the aggression, and the harsh consequences of the war for hundreds of thousands of Azerbaijani internally displaced persons and refugees who were forced to leave their homes.

At the same time, the incident that resulted in the death of an Armenian officer cannot be considered an ethnically motivated crime, as some may wrongly assume as a result of the pressure and disinformation of the Armenian side. It should be taken into account that, unlike mono-ethnic Armenia, Azerbaijan has preserved its ethnic diversity to the present day and many Armenians are living not only in the occupied Daghlyq Garabagh (Nagorno-Karabakh) region, but also in the capital and other major cities of Azerbaijan. Nor should the decision to pardon Ramil Safarov be perceived as something fuelling regional tensions or damaging the peace process and trust between the sides; rather, it should be viewed as an act of humanism in regard to a person who had already served more than eight years in prison, as well as in regard to his family.

Against this background, Armenia's inadequate reaction to the aforementioned legal matter between Azerbaijan and Hungary deserves particular attention. President Serzh Sargsyan of Armenia has overtly tried to blackmail and pressure other countries and international organizations to express reaction to this legal case; he instructed the Armenian Defence Ministry to place all troops on high alert, and went even further, announcing that he had given a "special assignment" to the National Security Service.

Immediately, a cyberattack was committed against a number of Azerbaijani news outlets, in particular those broadcasting in foreign languages. The primary purpose of the attack was to prevent the international community from accessing the

arguments of the Azerbaijani side, and thus to manipulate public opinion. Moreover, Armenia decided to suspend diplomatic relations with Hungary and organized public protests against that country's diplomatic missions throughout the world. Besides, an Armenian terrorist organization — the Armenian Secret Army for the Liberation of Armenia (ASALA), which has close ties with the Government of Armenia and which has perpetrated dozens of terrorist attacks against civilians and foreign diplomats in various countries — has recently announced that Azerbaijani diplomats are its next target.

It would be useful and helpful if those who responded to the call of the President of Armenia to react to the developments that had occurred in the case of Ramil Safarov would recall that the head of the Armenian State, whom they sometimes meet and whose hands they shake, unquestionably confessed his direct involvement in the Khojaly massacre which claimed lives of hundreds of Azerbaijani civilians, including children and women. Indeed, in his famous interview of 15 December 2000, Serzh Sargsyan, in answer to the question as to whether things could have happened differently and whether he had any regrets about the deaths of thousands of people as a result of Armenian attacks against Azerbaijani civilians, said frankly that he "has absolutely no regrets", since "such upheavals are necessary, even if thousands have to die" (see http://carnegieendowment.org/2012/02/24/president-interview-andtragic-anniversary/9vpa).

It is also notable that those who made deprecatory comments on the release of Ramil Safarov rarely, if at all, express their indignation about Armenia's continued illegal occupation of Azerbaijani territories and about that State's refusal to countenance the return of Azerbaijani displaced persons to their homes, as well as about the military exercises and parades regularly held by the armed forces of Armenia in the occupied territories of Azerbaijan in the presence of Armenia's political, military and religious leadership. It would be fair if they would also voice their protests against the killing on 8 March 2011 by an Armenian sniper of 9-year-old Fariz Badalov in the village of Orta Garvand in the Aghdam district of Azerbaijan, or the killing on 14 July 2011 of 14-year-old Aygun Shahmaliyeva in Alibayli village in the Tovuz district of Azerbaijan, bordering Armenia.

In addition, it is notable that representatives of some international organizations, who expressed their views regarding the case of Ramil Safarov, on numerous previous occasions reflecting Armenia's contempt for international law, human rights and fundamental freedoms, preferred to keep silent under the pretext that the conflict was being dealt with exclusively by the Minsk Group of the Organization for Security and Cooperation in Europe.

It is clear that the primary responsibility for waging the war, its consequences and the lack of progress in the conflict settlement process rests with the Government of Armenia. However, there is no doubt that Armenia's continued occupation of the territories of Azerbaijan and its undisguised efforts to consolidate the results of the aggression could not be possible without the feeling of permissiveness that Armenia enjoys within the conflict settlement process. Indeed, suffice it to recall that, while the Charter of the United Nations and international law prohibit the use of force for the acquisition of territory, and while the Security Council, in a series of four resolutions adopted in 1993, demanded the immediate, complete and unconditional withdrawal of the occupying forces from all the occupied territories of Azerbaijan, we are observing attempts within the conflict settlement process to equalize the

aggressor and its victim and to make the implementation by Armenia of the obligation to withdraw its armed forces from the territory of Azerbaijan and to resolve outstanding issues of State responsibility conditional upon addressing the aggressor's unlawful and unacceptable claims.

It is needless to say that such an approach not only contradicts the Charter of the United Nations and international law and represents manifest disregard of the above-mentioned resolutions of the Security Council, but also encourages the aggressor, namely Armenia, to continue sticking to its guns without the risk of facing more resolute actions and, consequently, contributes to escalating tensions and dooms to failure the prospect of a negotiated settlement of the conflict based on international law.

Taking this opportunity, I would also like to refer to the recent history when innocent civilians in many countries, including foreign diplomats, were killed by Armenian terrorist organizations. Thus, between 1973 and the present, with the exception of terrorist attacks against Azerbaijan and its citizens, Armenian terrorist groups, such as ASALA and the Justice Commandos of the Armenian Genocide, committed approximately 239 acts of terrorism in different countries of North America, Europe, the Middle East and the Pacific region, which killed at least 70 people and wounded 524; 105 people were taken hostage, 12 of whom were executed. Those terrorist acts included at least 160 bomb attacks and accounted for the vast majority of deaths and injuries, as they were generally committed in crowded public areas, such as airports, city squares and shopping malls.

It should be particularly noted that while the international community, particularly through the General Assembly and the Security Council, has repeatedly expressed its profound solidarity with the victims of terrorism and their families, stressed the importance of assisting victims of terrorism and provided them and their families with support to cope with their loss and grief, the leadership of Armenia has consistently demonstrated its solidarity with and support and sympathy for the perpetrators of terrorist acts. Evidence of the special relationship in Armenia can be seen in the glorification of terrorists and other criminals, including raising them to the status of national heroes and bestowing State decorations on them.

One of the examples is the well-known case of the Armenian terrorist Varujan Karapetyan, who committed a terrorist act at Orly airport in Paris on 15 July 1983 that claimed the lives of 8 people and injured 55 others. Although Varujan Karapetyan was sentenced in France to life imprisonment, 18 years later, in April 2001, he was transferred to Armenia, which had been neither his country of citizenship nor his country of residence. Despite that, upon arrival he was pardoned by the President of Armenia. He was later greeted by Armenia's Prime Minister, who expressed his "joy" at Karapetyan's release from jail, and Yerevan Mayor had pledged to provide him with employment and accommodation. Interestingly enough, before Varujan Karapetyan's transfer to Armenia, in 1995, over 1 million people in Armenia signed a petition to the authorities in France calling for the release of Karapetyan from prison. Moreover, the sixth grade at a school in Yerevan was named in his honour, and in Yerevan and Echmiadzin exhibitions of his paintings were organized.

Another example includes the well-known international terrorist Monte Melkonian, upon whom was conferred the title of national hero and who was posthumously awarded the highest military honours and decorations in Armenia.

Additionally, military commanders of the Armenian Legion during the Second World War, Nazi Generals Drastamat Kanayan and Garegin Nzhdeh, are also considered national heroes in Armenia. The only service rendered by those persons to Armenia and the factor uniting them were the killing of thousands of Azerbaijanis and Turks on ethnic and religious grounds.

Against this background, it is curious that the leadership of Armenia has the cheek to criticize and lecture others on such a notion as justice, which is a priori alien to that country's policy and practice. Indeed, what is in reality fuelling regional tensions is the continued illegal occupation of the territories of Azerbaijan and the persistent contempt for basic human rights of over 1 million Azerbaijani internally displaced persons and refugees. The best way to address the existing challenges and concerns is to ensure that the occupation of the territories of Azerbaijan is ended and that the inalienable right of the forcibly displaced population to return to their homes is exercised without further delay.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 35, 39, 67, 83 and 109, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative